IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Civil Writ Petition No. 1841 of 2002 (S/B)
(Old No. 24783 of 1989)

Bhagwati Prasad S/o Sri Fakir Chand
R/o Hydel Sub Station, Kaladhungi,
District Nainital …… Petitioner

Versus

U.P. State Electricity Board, Lucknow
Through its Chairman and others
…… Respondents

Mr. P.C. Bisht, learned counsel for the petitioner.
Mr. Vinay Kumar, Advocate holding brief of
Mr. Ranjeet Saxena, learned counsel for respondents.

Coram : Hon'ble P.C. Verma, J.
Hon'ble P.C. Pant, J.

This is a labour dispute for which the prayer clause 'B' has been made in the writ petition by the petitioner for issuing a writ of mandamus to refer the dispute to the labour court. The State Government has refused to refer the matter to the labour court vide the impugned order dated 07.09.1989 (annexure -12 to the writ petition), which has been sought to be quashed. As per impugned order, in the opinion of the State Government, it was not a labour dispute, therefore, the State Government refused to refer the matter by the impugned order.

2) The petitioner was serving as Junior Meter Tester and Reader in the Electricity Test Lab, Almora under Electricity Test Division, Haldwani and was suspended vide order dated 23.10.1981 of the Executive Engineer (Test Division), U.P.

State Electricity Board, Haldwani. The petitioner was served with a charge-sheet dated 27.01.1982 and a reply was submitted by him as per statement made in paragraph 2 of the writ petition. An Executive Engineer (Test Division), U.P. State Electricity Board, Haldwani was appointed as Enquiry Officer. The Enquiry Officer was directed to submit his report within a month from 04.01.1984. However, the petitioner was reinstated on his service on 10.06.1985. After the receipt of the enquiry report a minor punishment was given to the petitioner and he was redesignated as Sub Station Operator. Besides this, the petitioner was also punished by way of stoppage of four increments form his basic salary. This was done after the show cause notice issued to the petitioner. Vide said show cause notice, the petitioner was asked as to why he should not be punished, and in the punishment order it was provided that the salary during the period the petitioner was under suspension be withheld.

3) Learned counsel for the petitioner submitted before us that no proper enquiry was held and, therefore, he raised the industrial dispute and the State Government ought to have referred the matter in view of the provisions of Section 4K of the Industrial Disputes Act, 1947.

4) A counter affidavit has been filed on behalf of the respondents in which it has been stated that the petitioner did not co-operated in the enquiry and, therefore, the order of punishment was proper and there was no illegality and infirmity in the punishment order. As such, according to the respondents there was not labour dispute in this case and the

State Government has rightly refused the matter to be referred to the labour court.

5) Be that as it may, undisputedly, the petitioner is a workman and he is entitled to raise a dispute with regard to the punishment order slapped on him. Therefore, he could not be deprived opportunity to agitate the matter before the labour court which provides a forum to the petitioner to get the matter adjudicated judicially. Hence the State Government fell into error. By seeking reference for settlement of the dispute by a labour court, it was an opportunity to the petitioner to get himself fully exonerated to file his case for a judicial forum. This opportunity could not be denied by the State Government by refusing to refer the matter to the labour court without sufficient reasons. Therefore, we are of the opinion that the State Government ought to have referred the mater to the labour court for adjudication of the matter by it. In view of the above facts and circumstances, the writ petition deserves to be allowed and the same is accordingly allowed. The order dated 07.09.1989 is quashed. The State Government is directed to refer the dispute to the labour court for its adjudication within a period of one month from the date certified copy of this order is produced before it.

(P. C. Pant, J.) **(P.C. Verma, J.)**

Dt. 15th June, 2005.
H. Negi